

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 27-44 are pending in the application, with claims 27, 33, and 39 being the independent claims. Claims 27, 33, and 39 are sought to be amended. Claims 1 through 26 were previously cancelled. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***Rejections under 35 U.S.C. § 101***

The Examiner has rejected claims 39-44 under 35 U.S.C. § 101 as allegedly being non-statutory. (See Office Action, page 2). More specifically, the Examiner has alleged that a computer useable medium that can refer to a carrier wave or other signal “is non-statutory because it is not necessarily tangible.” (See Office Action, page 2). Without acquiescing to the propriety of this rejection, Applicants, for the purpose of expediting prosecution, have amended independent claim 39 to recite a “tangible computer useable medium.” Claims 40-44 depend from independent claim 39. In light of the above amendment to independent claim 39, Applicants believe this rejection of claims 39-44 has been accommodated or rendered moot and therefore request that this rejection be withdrawn.

***Rejections under 35 U.S.C. § 112***

The Examiner has rejected claims 27-44 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. (See Office Action, page 2). More specifically, the Examiner has alleged that “a scheduling computer” in the preamble of claim 27 is “indefinite because it is unclear in the claim language whether this refers to the first computer or the second computer.” (See Office Action, page 3, internal quotes omitted). The Examiner has also alleged that the various steps of claim 27 are indefinite because it is unclear whether the steps are performed at the first computer, at the second computer, or at a separate scheduling computer. (See Office Action, page 3). Furthermore, the Examiner has rejected claims 33 and 39 alleging “the same indefinite reasons” the Examiner applied to claim 27. (See Office Action, page 3).

Without acquiescing to the propriety of this rejection, Applicants, for the purpose of expediting prosecution, have amended independent claim 27 to recite “a scheduling third computer” to further clarify the claimed invention and distinguish the scheduling computer from the first computer and the second computer. Since the preamble of claim 27 now recites “at a scheduling third computer,” Applicants submit that claim 27 makes clear that the steps of claim 27 are performed at the scheduling third computer rather than at the first computer or the second computer. Similarly, independent claims 33 and 39 have been amended to recite “a scheduling third computer.” Claims 28-32, 34-38, and 40-44 depend from one of the independent claims 27, 33, and 39. In light of the above amendments to independent claims 27, 33, and 39, Applicants believe this

rejection of claims 27-44 has been accommodated or rendered moot and therefore request that this rejection be withdrawn.

***Rejections under 35 U.S.C. § 103***

The Examiner has rejected claims 27-44 under 35 U.S.C. 103(a) as being unpatentable over a combination of two or more of the following references: U.S. Patent No. 6,275,575 to Wu (“Wu”), U.S. Patent No. 6,085,244 to Wookey (“Wookey”), U.S. Patent No. 6,606,660 to Bowman-Amuah (“Bowman-Amuah”), and U.S. Patent No. 5,970,062 to Bauchot (“Bauchot”). (See Office Action, pages 3, 6, 7). Applicants respectfully disagree and traverse.

**Claims 27-32**

The Examiner has rejected claims 27-29 and 32 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wu in view of Wookey. (See Office Action, page 3). The Examiner has rejected claim 30 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wu in view of Wookey and further in view of Bowman-Amuah. (See Office Action, page 6). The Examiner has rejected claim 31 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wu in view of Wookey and further in view of Bauchot. (See Office Action, page 7).

For the Examiner’s convenience, independent claim 27 as amended is reproduced below:

27. A computer-based method of scheduling executions of programs on a plurality of computers comprising the steps of, at a scheduling third computer:
- (a) receiving a first notification from a first computer upon the installation of a first program on the first computer;

- (b) receiving a second notification from a second computer upon the installation of a second program on the second computer, wherein the operating system of the second computer is different from the operating system of the first computer;
- (c) updating a master schedule based on the first and the second notifications, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer; and
- (d) requesting the first computer to execute the first program and requesting the second computer to execute the second program according to the updated master schedule.

Neither Wu nor Wookey, alone or in combination, teach or suggest each and every element of independent claim 27. For example, neither Wu nor Wookey, teach or suggest, “updating a maser schedule based on the first and the second notifications, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer” as recited in claim 27, step (c). Furthermore, neither Wu nor Wookey, alone or in combination, teach or suggest, for example, “requesting the first computer to execute the first program and requesting the second computer to execute the second program according to the updated master schedule.” (See claim 27, step (d)).

Applicants appreciate Examiner’s acknowledgment in the previous Office Action dated April 19, 2005 that Wu “fails to explicitly teach having notifications” and “fails to explicitly teach that the master schedule is updated.” (See Office Action dated April 19, 2005, pages 3, 4). Furthermore, Applicants appreciate Examiner’s continued affirmation in the present Office Action that Wu “fails to explicitly teach having a master schedule based on the notifications.” (See Office Action, page 4).

Applicants note that Wu further fails to teach or suggest, for example, a master schedule that “indicates when the first program is to be executed on the first computer

and when the second program is to be executed on the second computer.” The Examiner appears to be equating the master schedule as recited in claim 27 with Wu’s multi-point telephone conference coordinator. (See Office Action, page 4 - Examiner cites “multi-point telephone conference coordinator” and column 5, lines 45-67 as allegedly teaching the steps involving the master schedule of claim 27). Numerous technical differences exist between the master schedule and the multi-point telephone conference coordinator. Unlike the master schedule, the multi-point telephone conference coordinator does not indicate when a *first program* is to be *executed* on a first computer and when a *second program* is to be *executed* on a second computer. The multi-point telephone conference coordinator merely generates invitations that can be forwarded to ask potential participants to join a telephone conference. (See Wu, col. 5, lines 45-67). The invitations may be forwarded to the potential participants, for example, by telephone, cellphone text message (SMS), or via e-mail. (See Wu, col. 5, lines 45-67). Neither the Examiner’s citation to Wu nor other portions of Wu teach or suggest, for example, the scheduling of *executions* of various programs on different computers. If the Examiner disagrees, Applicants request that the Examiner clearly point out in Wu the elements the Examiner considers as the indications in a master schedule of “when the first program is to be executed on the first computer and when the second program is to be executed on the second computer.”

Furthermore, as Wu does not teach or suggest, for example, a master schedule, Wu does not teach or suggest, for example, “requesting the first computer to execute the first program and requesting the second computer to execute the second program *according to the updated master schedule.*”

Wookey fails to overcome the deficiencies of Wu. Wookey discloses a remote monitoring system wherein each slave remote monitored machine performs its own set of tests and provides the test results to a master monitored machine, which then forwards the results to a service center computer system. (See Wookey, FIG. 2 with accompanying text). Wookey teaches that each remote monitored machine should individually schedule and execute tests independently of the other remote monitored machines. (See Wookey, col. 6, lines 32-67; col. 7, lines 1-30). Hence, Wookey does not teach or suggest “updating a master schedule based on the first and the second notifications, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer” as recited in claim 27, step (c). Furthermore, as Wookey is focused on remote monitored machines executing tests independently at its own scheduled interval, Wookey does not teach or suggest, for example, “requesting the first computer to execute the first program and requesting the second computer to execute the second program *according to the updated master schedule.*” (See claim 27, step (d), emphasis added).

Therefore, for at least the reasons stated above, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 27, and allowance thereof.

Dependent claims 28-29 and 32 are allowable for at least the same reasons stated above and further in view of their each respective features.

Dependent claims 30 and 31 depend from independent claim 27. Contrary to the assertions of the Examiner, neither Bowman-Amuah nor Bauchot overcomes the deficiencies of Wu and Wookey, alone or in combination. To reject claim 30, Bowman-Amuah is relied upon at most for teaching "monitoring to provide load balancing over a

network." (See, Office Action, page 6). To reject claim 31, Bauchot is relied upon at most for teaching a "master scheduler based on priority." (See Office Action, page 7). Applicants traverse. Even if a combination is assumed to be proper for the sake of argument, neither Bowman-Amuah nor Bauchot, taken alone or in combination with Wu and Wookey, teach or suggest each and every element of claims 30 and 31.

Accordingly, claims 28-32 are patentable for at least the reasons stated above, in addition to the elements, limitations, and/or features recited therein. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 28-32, and allowance thereof.

**Claims 33-38**

Similarly, amended independent claim 33 is patentable over Wu and Wookey, alone or in combination, for at least the reasons stated above. Furthermore, neither Bowman-Amuah nor Bauchot overcomes the deficiencies of Wu and Wookey, alone or in combination. Claims 34-38 depend from independent claim 33 and are patentable for at least the reasons stated above, in addition to the elements, limitations, and/or features recited therein. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 33-38, and allowance thereof.

**Claims 39-44**

Similarly, amended independent claim 39 is patentable over Wu and Wookey, alone or in combination, for at least the reasons stated above. Furthermore, neither Bowman-Amuah nor Bauchot overcomes the deficiencies of Wu and Wookey, alone or in combination. Claims 40-44 depend from independent claim 33 and are patentable for at least the reasons stated above, in addition to the elements, limitations, and/or features

recited therein. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 39-44, and allowance thereof.

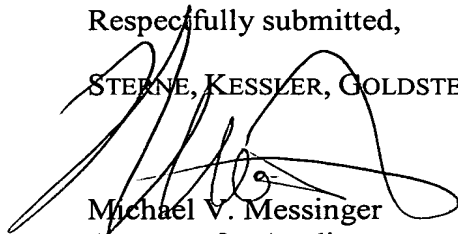
***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

  
Michael V. Messinger  
Attorney for Applicants  
Registration No. 37,575

Date: 4/28/06

1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600

444099\_2.DOC